

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

v.

Case No. 13-20495

Honorable Paul D. Borman

Magistrate Judge Elizabeth A. Stafford

ERIC WASHINGTON,

Defendant/Petitioner.

**ORDER GRANTING THE GOVERNMENT'S MOTION TO HAVE
THE COURT WAIVE THE ATTORNEY-CLIENT PRIVILEGE [203]**

On March 2, 2015, Defendant-Petitioner Eric Washington, a federal prisoner, filed a motion to vacate and/or correct his sentence pursuant to 28 U.S.C. § 2255. [192]. In his motion, Washington alleges multiple instances of ineffective assistance of counsel. In one such claim, Washington says his counsel was ineffective because he did not comply with his request to file an appeal regarding the applicable sentencing guidelines. [192, Pg ID 2335-36, 2344]. On March 27, 2015, the Government moved the Court to waive the attorney-client privilege with respect to the communications between Washington and his attorney related to the subject matters set forth in the § 2255 petition. [203]. The Honorable Paul D. Borman referred the Government's motion to this Court

for determination pursuant to 28 U.S.C. § 636(b)(1)(A). [204]. Washington has not responded to the Government's motion, and his response was due April 13, 2015.

A claim of ineffective assistance of counsel impliedly waives the attorney-client privilege as to any communications relevant to the claim. *In re Lott*, 424 F.3d 446, 452-54 (6th Cir. 2005). The waiver is construed narrowly, and the Court "must impose a waiver no broader than needed to ensure the fairness of the proceedings before it." *Id.* at 453 (citation omitted).

Here, Washington implicitly waived the attorney-client privilege with respect to the communications between himself and his attorney to the extent that those communications are related to his ineffective assistance of counsel claim in his § 2255 motion to vacate.

Accordingly, the Court **GRANTS** the Government's motion [203] to narrowly waive the attorney-client privilege with respect to the communications between Washington and his attorney related to Washington's ineffective assistance of counsel claim.

IT IS ORDERED.

Dated: April 14, 2015

s/Elizabeth A. Stafford
ELIZABETH A. STAFFORD
United States Magistrate Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on April 14, 2015.

s/Marlana Williams
MARLENA WILLIAMS
Case Manager